

# Exhibit 5

## McCorkle, Virginia Selden

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**From:** McOwen, Molly (CFPB) <Maureen.McOwen@cfpb.gov>  
**Sent:** Thursday, September 23, 2021 3:06 PM  
**To:** 'utdecf\_jenkins@utd.uscourts.gov'  
**Cc:** Reischl, Jonathan (CFPB); Hilmer, Tracy (CFPB); Ferrara, Alicia (CFPB); Tayman, Kyle; Hefferon, Thomas M; Harrington, William; Hennecken, Christina L; Hayden, Courtney; 'karra.porter@chrisjen.com'; McCorkle, Virginia Selden  
**Subject:** 19-CV-298BSJ - Proposed Order re: ECF 179  
**Attachments:** 19-CV-298BSJ - Proposed Order re ECF 179.docx

Dear Judge Jenkins,

As instructed during Tuesday's hearing in Case No. 2:19-cv-00298-BSJ, the Bureau of Consumer Financial Protection has prepared the attached proposed order to reflect the Court's rulings.

The Bureau shared a draft with Defendants' counsel and they objected to it, stating that the Court did not order the production of a privilege log or request that the order set forth the deposition dates. The Bureau's understanding is that the Court did order the production of a privilege log (if documents are withheld for privilege) and instructed the Bureau to include the depositions in the proposed order.

Regards,

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Consumer Financial Protection Bureau  
[consumerfinance.gov](https://consumerfinance.gov)

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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH

BUREAU OF CONSUMER FINANCIAL  
PROTECTION,

*Plaintiff,*

v.

PROGREXION MARKETING, INC., *et al.*,

*Defendants.*

Case No. 2:19-cv-00298-BSJ

**[PROPOSED] ORDER**

On September 2, 2021, Plaintiff filed a Motion for an Extension of Time to Respond to Heath PC's Motion for Summary Judgment (ECF 179). The Court considered the Motion, Heath PC's Opposition thereto (ECF 181), and Plaintiff's Reply in Support thereof (ECF 186), and held a hearing on September 21, 2021 by remote videoconference.

It is hereby ORDERED that Plaintiff's Motion is GRANTED IN PART and DENIED IN PART. The deadline for Plaintiff to file an Opposition to Heath PC's Motion for Partial Summary Judgment on Count I is November 15, 2021. The deadline for Heath PC to file a Reply in Support of its Motion for Partial

Summary Judgment on Count I is December 6, 2021. All other deadlines set forth in the Amended Scheduling Order (ECF No. 138) remain unchanged.

It is FURTHER ORDERED that Defendants, John Ulzheimer, and John DelPonti, Jr. shall furnish to Plaintiff all non-privileged information and materials responsive to Plaintiff's subpoenas and Plaintiff's First Expert-Related Requests for Production and Interrogatories, and provide an appropriate log for any material withheld on the basis of privilege, no later than October 15, 2021; and it is

FURTHER ORDERED that Heath PC shall make John Ulzheimer and John DelPonti, Jr., available for deposition by Plaintiff on the dates agreed upon by the parties.

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Dated

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Hon. Bruce S. Jenkins  
United States District Judge